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Scott LaDell Vance

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EXAMINER

HUANG, WEN WU

ART UNIT

PAPER NUMBER

2618

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DELIVERY MODE

10/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ADVISORY ACTION

Response to Arguments

Applicant's arguments filed 9/19/08 have been fully considered but they are not persuasive.

The Applicant argues that Holmes and Grados combination is improper because an ordinary skill artisan would not be motivated to combine Holmes with Grados. However, the Examiner respectfully disagrees.

More specifically, as the Applicant admitted in third paragraph on page 2 of the Remarks filed 9/19/08, Holmes teaches a switch to detect when the user lowers his chin and Grados teaches a detector to determine head gestures, such as a nod. Both Holmes and Grados teach the detection of head movement such as a nod which by definition is a lowering chin action by a person.

Thus, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to improve the switch of Holmes with the detector of Grados in order to provide a hands-free headset with improved sensing capability and retain full use of both hands as desired by Holmes (see Holmes, col. 1, lines 39-42 and Grados, para. [0012]).

The Examiner submits that it is unreasonable to place the detector of Grados on the user's chest in replacing the detector of Holmes as suggested by the Applicant in second paragraph on page 10 of the Remarks filed 4/18/08 in support for the

Art Unit: 2618

Applicant's argument that the combining of Holmes with Grados is inoperative. The Examiner submits that as the Applicant has admitted both Holmes and Grados intent to detect the head movements of the user (i.e. lowering chin and nodding). Thus, the Examiner does not understand why the Applicant has suggested that the combination of Holmes and Grados means placing the detector of Grados on the chest of the user of Holmes.

Therefore, the Examiner submits that the combination of Holmes and Grados is proper.

Furthermore, the Applicant argues that Holmes and Grados do not teach a tilt sensor. However, the Examiner respectfully disagrees.

Holmes teaches a switch sensing the tilting action of the head of the user (see Holmes, fig. 2, lowering chin action). Grados teaches sensing head movement including tilting of the head such as nodding. Thus, the Examiner submits that both Holmes and Grados teach a tilt sensor.

Moreover, the Applicant argues that the combination of Holmes and Grados does not teach a tilt sensor being activated in responsive to the sensor being tilted "for a predetermined time duration". However, the Examiner respectfully disagrees.

More specifically, the Examiner submits that Grados teaches sensing differential position of the head from the last sample with time-stamped (see Grados, para. [0025]).

Thus, the Examiner submits that Grados teaches not teach a tilt sensor being activated in responsive to the sensor being tilted “for a predetermined time duration”.

The Applicant also argues that Lenz does not teach a selected time delay. The Examiner maintains the position a selected time delay is taught by Lenz wherein the communication is delayed for a selected time until the click noise is made and heard by the user.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WEN W. HUANG whose telephone number is (571)272-7852. The examiner can normally be reached on 10am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2618

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/W. W. H./
Examiner, Art Unit 2618

/Matthew D. Anderson/
Supervisory Patent Examiner, Art Unit 2618